



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-412-801)

Ball Bearings and Parts Thereof from the United Kingdom: Notice of Court Decision Not in Harmony with Amended Final Results and Notice of Second Amended Results of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On August 23, 2017, the United States Court of International Trade (CIT) entered final judgment sustaining the final results of remand redetermination pursuant to court order by the Department of Commerce (Department) pertaining to the antidumping duty administrative review of the order on ball bearings and parts thereof (ball bearings) from the United Kingdom for the period May 1, 2010, through April 30, 2011. The Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results, as amended, in the administrative review of ball bearings from the United Kingdom.

DATES: September 2, 2017.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0410.

## SUPPLEMENTARY INFORMATION:

### Background

On January 27, 2015, the Department published the *Final Results* in the above-referenced administrative review.<sup>1</sup> The Department selected the highest rate from the petition (254.25 percent) as the dumping margin for Bayerische Motoren Werke AG (BMW), based on adverse facts available (AFA). BMW of North America LLC appealed the *Final Results* to the CIT, and on March 2, 2017, the CIT remanded the *Final Results*.<sup>2</sup> Specifically, the CIT remanded the *Final Results*, directing that the Department either: (1) provide a new corroboration analysis for the selected petition rate that is consistent with the Department's obligations and the Court's opinion; or (2) determine a new AFA rate consistent with the Department's obligations and the Court's opinion.<sup>3</sup>

On May 12, 2017, the Department issued its final results of redetermination pursuant to remand.<sup>4</sup> On remand, the Department determined a new AFA rate of 126.44 percent for BMW, consistent with the *Remand Order*. On August 23, 2017, the CIT sustained the Department's *Final Redetermination*.<sup>5</sup>

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<sup>1</sup> See *Ball Bearings and Parts Thereof from Japan and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 80 FR 4248 (January 27, 2015); as amended, *Ball Bearings and Parts Thereof from the United Kingdom: Amended Final Results of Antidumping Duty Administrative Review; 2010-2011*, 80 FR 9694 (February 24, 2015) (collectively, *Final Results*).

<sup>2</sup> See *BMW of North America LLC v. United States*, Court No. 15-00052, Slip Op. 17-22 (CIT March 2, 2017) (*Remand Order*).

<sup>3</sup> See *Remand Order* at 12-17.

<sup>4</sup> See *Results Of Remand Redetermination, BMW of North America LLC v. United States*, Court No. 15-00052, Slip Op. 17-22, dated May 12, 2017 (*Final Redetermination*).

<sup>5</sup> See *BMW of North America LLC v. United States*, Court No. 15-00052, Slip Op. 17-109 (CIT August 23, 2017).

### Timken Notice

In its decision in *Timken*,<sup>6</sup> as clarified by *Diamond Sawblades*,<sup>7</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s August 23, 2017, judgment constitutes a final decision of that court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

### Second Amended Final Results

Because there is now a final court decision, the Department is amending the *Final Results* with respect to BMW. The revised weighted-average dumping margin for BMW for the period May 1, 2010, through April 30, 2011, is as follows:

Exporter or Producer	Weighted-Average Dumping Margin (Percent)
Bayerische Motoren Werke AG	126.44

In the event the Court’s ruling is not appealed, or if it is appealed and upheld by a final and conclusive court decision, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties at a rate equal to the weighted-average dumping margin listed above to all entries of subject merchandise produced and/or exported by BMW.

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<sup>6</sup> See *Timken Co. v. United States*, 893 F.2d. 337 (Fed. Cir. 1990) (*Timken*).

<sup>7</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d. 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

### Cash Deposit Requirements

On March 26, 2014, the Department revoked the antidumping duty order on ball bearings and parts thereof from the United Kingdom, effective as of September 15, 2011.<sup>8</sup> Therefore, no cash deposit requirements will be imposed as a result of these second amended final results.

### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1) and 777(i)(1) of the Act.

Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

Dated: August 30, 2017

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<sup>8</sup> See *Ball Bearings and Parts Thereof from Japan and the United Kingdom: Final Results of Sunset Reviews and Revocation of Antidumping Duty Orders*, 79 FR 16771 (March 26, 2014).

